

The remedy chosen by EPA is both inadequate and inappropriate because it was applied without a comprehensive investigation of all contaminants within the site and without the agency's investigative determination of the source of the contaminants the agency was focused on, specifically arsenic and lead. The highway carrying cars fueled with leaded gasoline, tanneries, foundries and the demolition of the Omaha and Grant smelter stack, used as a municipal waste incinerator between 1944 to 1950, within the Elyria, Swansea, Globeville, Cole and Clayton neighborhoods are just a few of the potential sources of heavy metals including but not limited to arsenic and lead, VOCs and other contaminants in the area, the majority of which the EPA chose not to study.

EPA 's VB/I-70 Remedial Investigation (2001)

(https://www.epa.gov/sites/production/files/documents/vbi-70_ri_report.pdf) recognized that the area was environmentally impacted by many sources yet site testing was limited to a hypothesis that smelters were the source, arsenic and lead were the only contaminants of concern and soil was the only medium that would impact human health. Despite the multitude of potential sources and finding that the spatial pattern of arsenic throughout the site was inconsistent with what would be expected of sky fall from smelter stacks, EPA continued on with the smelter source hypothesis and formulated a remedy to remove lead and arsenic from the soil based on sky fall transport. EPA's Baseline Human Health Risk Assessment (2001) (<https://semspub.epa.gov/work/08/489917.pdf>) and Record of Decision (2003) (<https://semspub.epa.gov/work/08/2005189.pdf>) state that the source of the contamination is not known.

EPA representatives continue to suggest in public meetings that PAX, an herbicide, may be a source of the arsenic. The PAX theory for this site was debunked by John Drexler, an Associate Professor of Geology at CU Boulder, who utilized specialized equipment to fingerprint the arsenic within this Superfund site.

Research conducted by Denver residents found significant disparities between the USEPA Regional Screening Level of arsenic, Colorado Department of Health & Environment's (CDPHE) statewide assessment of background levels of arsenic and standards set for Superfund sites across Colorado and the nation. Nowhere in our research have we found accepted residential arsenic cleanup levels as high as exist within the VB/I-70 Superfund Site, an EPA designated Environmental Justice community.

USEPA's Regional Screening Level (RSL) for arsenic is 0.39 mg/kg for residential/unrestricted use. (<https://scholarworks.umass.edu/cgi/viewcontent.cgi?article=1146&context=soilsproceedings>). CDPHE's 2014 findings of more than 2,700 statewide samples was that Colorado arsenic background levels averaged 11 mg/kg, with the range being 6-19 mg/kg in urban mixed use areas. (https://www.colorado.gov/pacific/sites/default/files/HM_arsenic-in-soil-risk-mgt.pdf). Yet, EPA accepted a residential cleanup standard within the VB/I-70 superfund site of 70 ppm (also 70 mg/kg) of arsenic. Cleanups of other superfund sites across the state of Colorado have set much lower cleanup standards for this contaminant alone. According to the VB/I-70 Final Remedial Action Report (2017) (<https://semspub.epa.gov/work/08/1867122.pdf>),

the preliminary action level set in the human health risk assessment was 47 ppm. In addition to EPA's admission that the agency did not know the source of the arsenic, it accepted much contamination levels much higher than EPA and state guidelines suggest.

OU1, which solely includes shallow soils (top 12 inches) of residences, parks and schools ignores the historical infill that preceded environmental regulation and the neighborhoods and industry we recognize within the VB/I-70 Superfund neighborhoods in 2019. It disregards the streets bordering residential homes, which for more than a century were unpaved dirt roads, subjected to the same sources of contamination as the residential yards. These streets are presently being excavated without the same type of oversight, investigation and protection offered by superfund designation. Similarly, the designation overlooks commercial/industrial properties that neighbor residential yards and are also being demolished and excavated.

In the fall of 2016, several Denver residents met with representatives of EPA, CDPHE and DDPHE to gather information and answers to questions we had about the health and environmental risks of the pending Platte to Park Hill Stormwater Drainage and I-70 expansion projects within the VB/I-70 Superfund Site. We requested that the agencies press the pause button until further investigation was completed, area residents were informed of the projects, educated about the associated risks and until residents were confident that their health and well-being would not be at risk.

It was at these meetings that residents requested the EPA form a Community Advisory Group, (CAG) for the VB/I-70 Site. The EPA denied our requests until December 2016/January 2017, when EPA representatives then proceeded with the creation of a CAG. EPA did not schedule the initial meeting of the CAG until the first project within the greater Platte to Park Hill Stormwater Drainage project was underway, therefore eliminating the opportunity for CAG members to work with the EPA in an advisory capacity to share their concerns and assist EPA with decisions on protective measures for people living and working within and nearby the site.

From the outset, the agency focused the group narrowly on the OU2 portion of the Superfund Site. The CAG developed and, at their September 2018 meeting, adopted bylaws that enabled the group to learn about and make recommendations concerning the entirety of the VB/I-70 Superfund Site.

Throughout the 2 years that the CAG has been meeting, the EPA has made no effort to enable the group to act in its advisory capacity. Rather the EPA has denied residents the opportunity to access to requested information, ignored recommendations and resolutions issued by the group, and shirked its responsibilities to educate and inform the community at large about the risks the I-70 expansion and Platte to Park Hill Stormwater Drainage Projects including Globeville Landing Outfall Project and the 39th Avenue Greenway projects presented as a result of each of them being constructed within the Superfund Site.

As part of Superfund protocol, NCP at 40 CFR § 300.415(n)(3)(iii) and 40 CFR § 300.430(c)(2)(iii), EPA is to require the lead agency for the site establish an information repository within or close by the site. On multiple occasions Denver residents and CAG members visited the Valdez - Perry Library, the designated VB/I-70 Superfund Site document repository located within the impacted community, to review the Site documentation. Each time, over the course of a 3-year period, the folder was void of critical site documents. EPA was notified each time. Follow up visits to the library, however, resulted in the residents continuing to find critical documents such as the 2001 Remedial Investigation, 2003 Record of Decision, Health Impact Assessment, site sampling data, a copy of CERCLA, NCP, RCRA, press releases administrative records documents and more missing from the folder. EPA's negligence in creating and maintaining a repository that is complete with all critical site documents and their lackadaisical response to community outreach about the missing documentation is an injustice to the environmental justice neighborhoods located within the site.

EPA Region 8 has effectively shut out the community voice for a project the holds serious risks and consequences for the people who live within, nearby and /or work within the VB/I-70 Superfund Site.

Following is the CAG's first resolution formally requesting that the EPA re-open its OU1 investigation and halt the delisting process. EPA Region 8's response was for the CAG to submit its resolution during the delisting comment period. This is just one blatant example of local EPA representatives denying the CAG the ability to conduct its advisory role and the community from having a voice in matters concerning construction projects within the site.

RESOLUTION 2018-01
OF THE
COMMUNITY ADVISORY GROUP VB/I70 SUPERFUND SITE

"To protect public health and the environment, the Superfund program focuses on making a visible and lasting difference in communities, ensuring that people can live and work in healthy, vibrant places." <https://www.epa.gov/superfund>

In July 2018, the Community Advisory Group (CAG) was briefed by Chuck Norris regarding the shortcomings of the Remedial Investigation for Operable Unit 1, and Health Assessment for Operable Unit 1 of the VB/I70 Superfund Site.

The presentation demonstrated that both the Remedial Investigation and the Health Assessment were based on inconclusive evidence and an incomplete understanding regarding placement and extent of soil contamination. The remedy subsequently chosen for Operable Unit 1 was inadequate to protect public health and the environment.

The Community Advisory Group (CAG) recommends that EPA:

* Re-open its investigation of the source(s) of contamination documented in the VB/I70 Superfund Site soils

- * Expand its assessment of contamination of affected soils, groundwater, air by redefining Operable Unit 1, or establishing a new Operable Unit
- * Halt the delisting process for Operable Unit 1
- * Honor the Environmental Justice designation given by the EPA to the VB/I70 Superfund Site by investigating the disproportionate environmental impacts from all sources – including industry, other Superfund sites, and major transportation corridors.

Delisting OU1 the VB/I-70 Superfund Site at this time will perpetuate the historic and ongoing injustice to the neighborhoods, of Elyria Swansea, Globeville, Cole and Clayton, situated within the Site and communities beyond it for years to come.

Because the EPA has focused its investigations narrowly on arsenic and lead and because the EPA was unable to determine the source or cause for the high levels of arsenic and lead present within the site and because the EPA recognized early on that there were many potential sources for the contamination including the historic smelters and because there was evidence that additional contaminants were present at the site but EPA chose to exclude them from their investigation OU1 should not be delisted. For the aforementioned reasons, the remedy implemented for OU1 is inadequate and does not assure current and future residents are protected.

OU1 should not be delisted. Rather the OU1 designation should be expanded to cover streets, commercial/industrial areas and transport mediums such as groundwater and air that were previously excluded and further testing should be done throughout the entire Operable Unit 1.

This comment is submitted by Kimberly Morse, Concerned Denver Resident & Community Member and administrator for the VB/I70 Superfund Site CAG. This comment is not submitted on behalf of the CAG.